

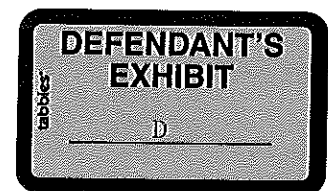
ALVERENE BUTLER

v.

**ALABAMA DEPARTMENT OF TRANSPORTATION, et
al.**

PATRICK TODD JACKSON

January 4, 2007



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Phone: 334.262.7556
Fax: 334.262.4437**

PATRICK TODD JACKSON - 1/4/2007

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT CIRCUIT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION</p> <p>ALVERENE BUTLER, Plaintiff, vs. CASE NO. 2:06-CV-278-MEF ALABAMA DEPARTMENT OF TRANSPORTATION, et al., Defendants.</p> <p style="text-align: center;">* * * * *</p> <p style="text-align: center;">DEPOSITION OF PATRICK TODD JACKSON,</p> <p>taken pursuant to notice and stipulation on behalf of the Plaintiff, and the ALABAMA DEPARTMENT OF TRANSPORTATION, 1409 Coliseum Boulevard, Room K-101, Montgomery, Alabama 36130-3050, before DAWN A. GOODMAN, Certified Shorthand Reporter and Notary Public in and for the State of Alabama at Large, on Thursday, January 4, 2007, commencing at 11:10 o'clock a.m.</p>	<p style="text-align: right;">3</p> <p style="text-align: center;">1 STIPULATIONS</p> <p>2 It is hereby stipulated and agreed by</p> <p>3 and between counsel representing the parties</p> <p>4 that the Deposition of Patrick Todd Jackson is</p> <p>5 taken pursuant to notice and stipulation on</p> <p>6 behalf of the Plaintiff; that all formalities</p> <p>7 with respect to procedural requirements are</p> <p>8 waived; that said deposition may be taken</p> <p>9 before DAWN A. GOODMAN, Certified Shorthand</p> <p>10 Reporter and Notary Public in and for the State</p> <p>11 of Alabama at Large, without the formality of a</p> <p>12 commission; that objections to questions, other</p> <p>13 than objections as to the form of the</p> <p>14 questions, need not be made at this time, but</p> <p>15 may be reserved for a ruling at such time as</p> <p>16 the deposition may be offered in evidence or</p> <p>17 used for any other purpose as provided for by</p> <p>18 the Civil Rules of Procedure for the State of</p> <p>19 Alabama.</p> <p>20 It is further stipulated and agreed by</p> <p>21 and between counsel representing the parties in</p> <p>22 this case that the filing of the Deposition of</p> <p>23 Patrick Todd Jackson is hereby waived and that</p>
<p style="text-align: right;">2</p> <p style="text-align: center;">1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 JAY LEWIS, Esquire</p> <p>5 847 South McDonough Street</p> <p>6 Suite 100</p> <p>7 P.O. Box 5059</p> <p>8 Montgomery, Alabama 36104</p> <p>9</p> <p>10 FOR THE DEFENDANTS:</p> <p>11 HARRY LYLES, Esquire</p> <p>12 Alabama Department of Transportation</p> <p>13 1409 Coliseum Boulevard</p> <p>14 Room K-101</p> <p>15 Montgomery, Alabama 36130-3050</p> <p>16</p> <p>17 ALSO PRESENT:</p> <p>18 Alverene Butler</p> <p>19 Mark Waits</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p style="text-align: right;">4</p> <p>1 said deposition may be introduced at the trial</p> <p>2 of this case or used in any other manner by</p> <p>3 either party hereto provided for by the</p> <p>4 Statute, regardless of the waiving of the</p> <p>5 filing of same.</p> <p>6 It is further stipulated and agreed by</p> <p>7 and between the parties hereto and the witness</p> <p>8 that the signature of the witness to this</p> <p>9 deposition is hereby waived.</p> <p>10</p> <p>11 * * * * *</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

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<p style="text-align: right;">5</p> <p style="text-align: center;">I N D E X</p> <p style="text-align: right;">Page</p> <p>Examination by Mr. Lewis 6</p>	<p style="text-align: right;">7</p> <p>1 sign your deposition. You can waive the</p> <p>2 right, or you can reserve the right to</p> <p>3 read and sign. You can consult with</p> <p>4 Harry about it.</p> <p>5 Do you want to read and sign</p> <p>6 it or do you want to waive that right?</p> <p>7 MR. LYLES: Waive it.</p> <p>8 A. I'll waive it.</p> <p>9 Q. (By Mr. Lewis) What's your position with</p> <p>10 ALDOT?</p> <p>11 A. I am a Transportation Technologist</p> <p>12 Senior.</p> <p>13 Q. And what does that mean?</p> <p>14 A. I'm a Project Engineer. I'm in charge of</p> <p>15 construction projects.</p> <p>16 Q. And how long have you been doing that?</p> <p>17 A. About seven and a half years. I haven't</p> <p>18 been a Transportation Technologist for</p> <p>19 seven and a half years. I have been a</p> <p>20 Project Engineer for seven and a half</p> <p>21 years.</p> <p>22 Q. When did you join ALDOT?</p> <p>23 A. February 3rd, 1983.</p>
<p style="text-align: right;">6</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>THE COURT REPORTER: Counsel, did</p> <p>you want the usual</p> <p>stipulations?</p> <p>MR. LYLES: That's fine.</p> <p>MR. LEWIS: That's fine.</p> <p>(PATRICK TODD JACKSON,</p> <p>of lawful age, having</p> <p>been duly sworn,</p> <p>testified as follows:)</p> <p style="text-align: center;">E X A M I N A T I O N</p> <p>BY MR. LEWIS:</p> <p>Q. (By Mr. Lewis) Tell us your name, please.</p> <p>A. Patrick Todd Jackson.</p> <p>Q. Okay. Mr. Jackson, my name is Jay Lewis.</p> <p>You heard what I chatted with Ms. Stacey</p> <p>about with regard to depositions. Have</p> <p>you done a deposition before?</p> <p>A. Yes, sir.</p> <p>Q. Okay. You have the right to read and</p>	<p style="text-align: right;">8</p> <p>1 Q. Okay. You have been working continuously</p> <p>2 since then?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And when did you become a Project</p> <p>5 Engineer?</p> <p>6 A. July of 1999.</p> <p>7 Q. And I know that these titles with the</p> <p>8 State change periodically, but the job</p> <p>9 kind of remains the same from time to</p> <p>10 time but under a different job title.</p> <p>11 Is a Transportation</p> <p>12 Technologist essentially the same thing</p> <p>13 as a Civil Engineer?</p> <p>14 A. I was a Civil Engineer when I was</p> <p>15 promoted to a Project Engineer. They had</p> <p>16 several engineer classifications. I</p> <p>17 don't know where the Transportation</p> <p>18 Technologist Senior would fall into that</p> <p>19 now.</p> <p>20 Q. Okay. At some point did you become</p> <p>21 acquainted with Ms. Butler?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And when did you first come to know</p>

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<p>9</p> <p>1 Ms. Butler?</p> <p>2 A. When she -- well, I had seen her in the</p> <p>3 District when I came up here and started</p> <p>4 working. She was transferred to me at</p> <p>5 one point. I don't remember when.</p> <p>6 Q. From whom was she transferred?</p> <p>7 A. I'm not sure.</p> <p>8 Q. Do you know why she was transferred?</p> <p>9 A. No, sir.</p> <p>10 Q. Did you have any communications with Mr.</p> <p>11 Waits at the time of her transfer?</p> <p>12 A. Other than she was being sent to me. She</p> <p>13 came with several other employees. I</p> <p>14 don't remember how many.</p> <p>15 Q. And he didn't tell you why she was being</p> <p>16 transferred to you?</p> <p>17 A. No, sir.</p> <p>18 Q. And during the period of time that</p> <p>19 Ms. Butler worked with you, you also</p> <p>20 supervised Ms. Stacey; correct?</p> <p>21 A. Yes, sir.</p> <p>22 Q. All right. Did you ever tell Ms. Butler</p> <p>23 that Mr. Waits was either out to get her</p>	<p>11</p> <p>1 Q. Okay. Well, tell me about these</p> <p>2 unexcused absences that you referred to.</p> <p>3 What are the procedures for getting</p> <p>4 absences excused?</p> <p>5 A. Annual leave is supposedly supposed to be</p> <p>6 approved beforehand. Sick leave is</p> <p>7 supposed to be approved beforehand. If</p> <p>8 you have, like, a doctor appointment or</p> <p>9 something like that. You can call in and</p> <p>10 be excused if you call in sick.</p> <p>11 Q. Did you ever institute a policy by which</p> <p>12 employees were restricted to one call-in</p> <p>13 per month?</p> <p>14 A. Yes, sir. I believe it was one call-in a</p> <p>15 month. I can't remember the exact. It</p> <p>16 was one call-in a month, and I can't</p> <p>17 remember all of it, no, sir. It's still</p> <p>18 in effect.</p> <p>19 Q. All right. And did -- in your opinion,</p> <p>20 did Ms. Butler violate that one call-in a</p> <p>21 month policy?</p> <p>22 A. Yes, sir.</p> <p>23 Q. All right. Do you know how many times</p>
<p>10</p> <p>1 or she was on his list?</p> <p>2 A. No, sir.</p> <p>3 Q. Or anything like that?</p> <p>4 A. No, sir.</p> <p>5 Q. How was Ms. Butler an as an employee?</p> <p>6 A. Average.</p> <p>7 Q. No particular complaints about her work</p> <p>8 performance?</p> <p>9 A. Oh, yes, sir. I had some complaints</p> <p>10 about her.</p> <p>11 Q. What were they?</p> <p>12 A. Unexcused absences. But I felt it was</p> <p>13 too many absences, stuff like that.</p> <p>14 Q. Anything else?</p> <p>15 A. As a supervisor, you always have</p> <p>16 complaints about all of your employees --</p> <p>17 maybe not -- thinking maybe they are not</p> <p>18 attending to their work properly or</p> <p>19 something like that. In that situation,</p> <p>20 it would probably be no more than most of</p> <p>21 my employees.</p> <p>22 Q. Nothing in particular stands out?</p> <p>23 A. No, sir.</p>	<p>12</p> <p>1 she called in during an average month?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you ever write her up for excessive</p> <p>4 call-ins?</p> <p>5 A. I don't understand what you mean by</p> <p>6 "write her up." Explain.</p> <p>7 Q. Reprimand her, discipline her, put</p> <p>8 anything in her file?</p> <p>9 A. I think she may have gotten what I call a</p> <p>10 letter of written counsel kind of</p> <p>11 document in her time. I don't remember</p> <p>12 if I ever reprimanded her for it or</p> <p>13 not.</p> <p>14 Q. Okay. Did you ever write up Ms. Stacey</p> <p>15 or give her a letter of counsel?</p> <p>16 A. Yes, sir.</p> <p>17 Q. All right. About what?</p> <p>18 A. Her time, her leave and stuff like</p> <p>19 that.</p> <p>20 Q. Okay. Were Ms. Stacey and Ms. Butler</p> <p>21 allowed to come in late in the morning in</p> <p>22 order to discharge their child care</p> <p>23 responsibilities.</p>

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<p>13</p> <p>1 A. I didn't allow them to come in late. I 2 allowed them to come in at 7:30 instead 3 of 7:00. I didn't consider it being 4 late. I mean, that was something we 5 worked out. 6 Q. Then they worked over to make up for 7 that? 8 A. They sometimes, maybe, they would take a 9 30-minute lunch, but usually I think they 10 stayed 30 minutes later than most 11 employees were. 12 Q. At some point, did that policy change 13 where they were no longer permitted to do 14 that? 15 A. Yes, sir. 16 Q. And was Ms. Stacey required to come in at 17 7:00 at the same time as Butler was? 18 A. Yes, sir. 19 Q. And did she do that? 20 A. Yes, sir. 21 Q. Tell me about this accident on January 22 31st of 2005. How did you learn of that 23 accident?</p>	<p>15</p> <p>1 believe it was -- dealt with the 2 accident. 3 During that conversation she 4 had told me that Ms. Butler had stated to 5 some of the other employees that she had 6 used racial epithets during the accident 7 or after the accident or something like 8 that. She was wanting to try to get it 9 cleared up. 10 Ms. Butler, I believe, was 11 in a school that week, so I didn't have a 12 chance to talk to Ms. Butler about it 13 until a couple of days later. On Friday 14 afternoon. I think she got off the 15 school at about 1:00 o'clock, so I talked 16 to her that Friday. Basically asked her 17 had Karen used the racial epithets, and 18 Ms. Butler said she had. 19 And I believe I asked her 20 had she been harmed in any way -- I can't 21 remember the exact words -- and she told 22 me she had forgot it as soon as it 23 happened. I asked her to not talk to any</p>
<p>14</p> <p>1 A. I believe Ms. Stacey called me on 2 SouthernLINC. 3 Q. And SouthernLINC is the walk-talkie 4 phones? 5 A. Yes. 6 MR. LYLES: Most of the DOT 7 employees do. 8 Q. (By Mr. Lewis) Did you have a 9 conversation with Ms. Butler about that 10 accident? 11 A. About the accident? 12 Q. Yes. 13 A. No, sir. Are you talking about the day 14 of the accident? 15 Q. At any time. 16 A. Yes, sir. I had a conversation 17 with her. 18 Q. Tell me about that conversation. When 19 did it take place, first of all? 20 A. I'm not sure of the date. Ms. Stacey had 21 came to me, I believe it was, about some 22 Blue Cross Insurance or something Blue 23 Cross was wanting for her -- and I</p>	<p>16</p> <p>1 other employees about it until I had a 2 chance to talk to Mr. Waits. 3 Mr. Waits I don't believe 4 was -- at work that Friday but by that 5 time in the afternoon, and I was going to 6 try to get with him Monday morning and 7 talk to him about it, because I knew the 8 procedure if an employee come to me and 9 stated that racial epithets or something 10 like that had been used. 11 But I didn't know what the 12 procedure was if an employee had been -- 13 would come to you and say somebody else 14 was saying -- in other words, the person 15 supposedly using the racial epithets came 16 to me and said it wasn't true, and she 17 wanted something done. 18 Well, I didn't know what to 19 do in that case is the reason I was 20 wanting to talk to Mr. Waits about it. 21 Q. And did you talk to Mr. Waits about it? 22 A. Yes, sir. 23 Q. And describe the conversation between you</p>

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<p>17</p> <p>1 and Mr. Waits about that.</p> <p>2 A. Basically laying out both sides of the</p> <p>3 story. I believe Mr. Phillips, our</p> <p>4 construction engineer at the time, was</p> <p>5 there too and just basically told him I</p> <p>6 didn't know how to proceed with it.</p> <p>7 Q. What did Mr. Waits tell you?</p> <p>8 A. I believe Mr. Phillips decided that</p> <p>9 we would let the EEO officer handle it.</p> <p>10 Q. Who was the EEO officer?</p> <p>11 A. Doug Furlow was.</p> <p>12 Q. Did you refer to Doug Furlow?</p> <p>13 A. Yes, sir. Mr. Furlow took it from</p> <p>14 there.</p> <p>15 Q. Do you know how it was resolved?</p> <p>16 A. No, sir, I don't. I may have known at</p> <p>17 the time. I don't remember how they</p> <p>18 resolved it, no, sir.</p> <p>19 Q. But you had already talked with</p> <p>20 Ms. Butler after her class about whether</p> <p>21 or not Ms. Stacey had said that?</p> <p>22 A. Yes, sir.</p> <p>23 Q. All right. I may have asked you this,</p>	<p>19</p> <p>1 her to watch herself?</p> <p>2 A. I believe Mrs. Knight, Ms. Butler came to</p> <p>3 work for me at the same time. I don't</p> <p>4 remember, but I believe they both came to</p> <p>5 work for me at the same time.</p> <p>6 Q. Were you aware that Ms. Knight had</p> <p>7 previously filed a grievance against a</p> <p>8 previous supervisor?</p> <p>9 A. No, sir.</p> <p>10 Q. Were you aware of whether or not</p> <p>11 Ms. Butler had ever filed a grievance</p> <p>12 against a previous supervisor?</p> <p>13 A. Have actually filed a grievance? No,</p> <p>14 sir.</p> <p>15 Q. Or made a complaint?</p> <p>16 A. Yes, sir.</p> <p>17 Q. How did you become aware of that?</p> <p>18 A. I don't remember.</p> <p>19 Q. Did you become aware of it before or</p> <p>20 after Ms. Butler came to work for you?</p> <p>21 A. After.</p> <p>22 Q. How many people -- during 2005, how many</p> <p>23 people worked under your supervision?</p>
<p>18</p> <p>1 but I have some severe short-term memory</p> <p>2 loss. Did you ever advise Ms. Butler to</p> <p>3 watch herself for any reason?</p> <p>4 A. "To watch herself"?</p> <p>5 Q. Yes.</p> <p>6 A. I don't think I would have used them</p> <p>7 terms, no, sir.</p> <p>8 Q. Well, in those words or words to that</p> <p>9 effect that she was in trouble or was</p> <p>10 going to get in trouble or that Mr. Waits</p> <p>11 was out to get her or anything like</p> <p>12 that?</p> <p>13 A. No, I know I never said Mr. Waits was out</p> <p>14 to get her.</p> <p>15 Q. Did Mr. Waits ever have a conversation</p> <p>16 with you about Ms. Butler in which he</p> <p>17 said, you know, We need to get rid of</p> <p>18 her; We need to watch her; We need to</p> <p>19 take care of her. Anything like that?</p> <p>20 A. No, sir.</p> <p>21 Q. Did you ever tell Ms. Butler to take</p> <p>22 Reeser Knight aside after she was</p> <p>23 transferred into your project and advise</p>	<p>20</p> <p>1 A. Probably -- I can't remember exactly.</p> <p>2 Anywhere from nine to 11, something like</p> <p>3 that.</p> <p>4 Q. Okay.</p> <p>5 MR. LYLES: Jay, excuse me. Just</p> <p>6 so I don't get confused. You</p> <p>7 mean the total number of</p> <p>8 people that worked under him</p> <p>9 from January to December or</p> <p>10 number of people that would</p> <p>11 usually be on a crew?</p> <p>12 MR. LEWIS: I hear what you're</p> <p>13 saying, Harry. And that was</p> <p>14 a bad question. I realized</p> <p>15 as soon as he answered.</p> <p>16 Q. (By Mr. Lewis) At any given time, how</p> <p>17 many people would be under your?</p> <p>18 A. Nine to 11.</p> <p>19 Q. Okay. All right. During 2005, say</p> <p>20 2005-2006, how many people have left who</p> <p>21 were under your supervision?</p> <p>22 Obviously, Ms. Butler did. I believe</p> <p>23 Ms. Knight did.</p>

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<p style="text-align: right;">21</p> <p>1 A. Four to five. I'm not exactly sure.</p> <p>2 Q. Okay. Out of those four to five, how</p> <p>3 many were Black? How many were white?</p> <p>4 A. They were all black.</p> <p>5 Q. All black. And of the nine to 11 people</p> <p>6 who were working for you at any given</p> <p>7 time, give me your best judgment as to</p> <p>8 how many would be white, how many would</p> <p>9 be black.</p> <p>10 A. Four were white and the rest were</p> <p>11 black.</p> <p>12 Q. So there would be four whites and</p> <p>13 somewhere between five and seven</p> <p>14 Blacks?</p> <p>15 A. Yes, sir.</p> <p>16 Q. All right. During September of 2005, was</p> <p>17 there ever a time that you and Mr. Waits</p> <p>18 and Ms. Stacey and Ron Estes were riding</p> <p>19 together through the job site in the same</p> <p>20 vehicle?</p> <p>21 A. I wouldn't remember that. It wouldn't be</p> <p>22 odd for the Division Engineer and the</p> <p>23 District Engineer to come to a project,</p>	<p style="text-align: right;">23</p> <p>1 came down and was working for you, how</p> <p>2 many points could he get?</p> <p>3 A. I don't know. I would have to look over</p> <p>4 Him the whole year and see how He did on</p> <p>5 his job.</p> <p>6 Q. Okay. Your theoretical perfect employee.</p> <p>7 A. I just have never had one of them.</p> <p>8 Q. 40 points?</p> <p>9 A. I don't know. See, because you have a</p> <p>10 formula where you take their number of</p> <p>11 job duties and divide it. So in other</p> <p>12 words, somebody has more job duties than</p> <p>13 somebody else. I don't know if it all</p> <p>14 ends up a 40. I'm mean, I'm not sure.</p> <p>15 Q. Well, you're the one who does the</p> <p>16 calculations.</p> <p>17 A. Yes, sir. Well, it's printed out on the</p> <p>18 thing. You do a score up and you divide</p> <p>19 by a certain number, that kind of</p> <p>20 thing.</p> <p>21 Q. Did you ever deduct points from</p> <p>22 Ms. Butler for having failed the ACI</p> <p>23 test?</p>
<p style="text-align: right;">22</p> <p>1 major project, something like that. But</p> <p>2 I can't remember if in September they</p> <p>3 came or not.</p> <p>4 Q. Do you recall whether or not there was</p> <p>5 ever a conversation involving you and Mr.</p> <p>6 Waits and Mr. Estes in which you were</p> <p>7 encouraging Ms. Stacey to come up with</p> <p>8 some charges against Ms. Butler?</p> <p>9 A. No, sir.</p> <p>10 Q. Appraisals. And I don't have copies of</p> <p>11 the appraisals here, and we have not</p> <p>12 really exchanged those things, so I'm</p> <p>13 really speaking from recollection of</p> <p>14 Ms. Butler here. But, did you give</p> <p>15 Ms. Butler a yearly appraisal in 2005 in</p> <p>16 which you scored her a 10.5?</p> <p>17 A. Did I give her one?</p> <p>18 Q. Yes.</p> <p>19 A. I wouldn't use them terms, no, sir.</p> <p>20 Q. Did you rate her as a 10.5?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. And what -- on what scale? In</p> <p>23 other words, how many points if Jesus</p>	<p style="text-align: right;">24</p> <p>1 A. Yes, sir.</p> <p>2 Q. Did she later take the test and pass</p> <p>3 it?</p> <p>4 A. I don't know. I don't remember.</p> <p>5 Q. Did you deduct seven points for</p> <p>6 disciplinary reasons for Ms. Butler?</p> <p>7 A. I know there is a certain number of</p> <p>8 points you deduct from a performance</p> <p>9 appraisal. I don't right off the top of</p> <p>10 my head remember how many points it is.</p> <p>11 Q. All right. Regarding that accident</p> <p>12 earlier that year in January and the</p> <p>13 confrontation that took place in April</p> <p>14 that you heard Ms. Stacey describe, did</p> <p>15 you give Ms. Butler any written notice of</p> <p>16 counseling for that?</p> <p>17 A. For the accident?</p> <p>18 Q. No. For the confrontation.</p> <p>19 A. I think I gave her a reprimand for it.</p> <p>20 Q. Did you give Ms. Stacey a reprimand?</p> <p>21 A. No, sir.</p> <p>22 Q. Having heard that Ms. Stacey actually</p> <p>23 started that conversation by saying the</p>

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<p>25</p> <p>1 first words to Ms. Butler, can you</p> <p>2 explain why you gave Ms. Butler a</p> <p>3 reprimand and not Ms. Stacey?</p> <p>4 A. I didn't -- when I talked to my employees</p> <p>5 about it, I didn't talk to Ms. Butler or</p> <p>6 Ms. Stacey. I talked to the other</p> <p>7 employees and asked them what happened.</p> <p>8 That's how I came up with what I thought</p> <p>9 was appropriate.</p> <p>10 Q. Did the other employees tell you that</p> <p>11 Ms. Butler had started the</p> <p>12 conversation?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Now today is this the first time you</p> <p>15 found out that's not true?</p> <p>16 A. I don't know if I found that out today.</p> <p>17 Q. Well, you were under the impression from</p> <p>18 having talked to, quote, "the other</p> <p>19 employees" that Ms. Butler had basically</p> <p>20 instigated the confrontation; correct?</p> <p>21 A. Yes, sir.</p> <p>22 Q. All right. And you heard Ms. Stacey in</p> <p>23 here just a few minutes ago saying that</p>	<p>27</p> <p>1 James Feagin, J-A-M-E-S,</p> <p>2 F-E-A-G-I-N. Frank</p> <p>3 Hollifield, F-R-A-N-K,</p> <p>4 H-O-L-L-I-F-I-E-L-D. And</p> <p>5 Eric Robbins, E-R-I-C,</p> <p>6 R-O-B-B-I-N-S.</p> <p>7 Q. (By Mr. Lewis) What race is Mr.</p> <p>8 Hollifield?</p> <p>9 A. He is white.</p> <p>10 Q. How about Mr. Robbins?</p> <p>11 A. He is white.</p> <p>12 Q. How about Mr. Taylor?</p> <p>13 A. He is black.</p> <p>14 Q. And how about Mr. Feagin?</p> <p>15 A. He was black.</p> <p>16 Q. Okay. But you didn't talk to Ms. Stacey</p> <p>17 or Ms. Butler?</p> <p>18 A. No, sir. Now, I talked to Ms. Butler</p> <p>19 about it when I gave her her reprimand,</p> <p>20 yes, sir. But I didn't talk to her about</p> <p>21 it at the time, no, sir. I didn't</p> <p>22 actually talk to any of them at the time</p> <p>23 of the incident. I talked to them later</p>
<p>26</p> <p>1 she was the one who said to Ms. Butler,</p> <p>2 "If you got something to say, say it."</p> <p>3 Have you heard that?</p> <p>4 A. I don't remember her exact words, no,</p> <p>5 sir.</p> <p>6 Q. But does that give you some clue as to</p> <p>7 who instigated the confrontation?</p> <p>8 A. No, sir.</p> <p>9 Q. It doesn't. Okay. Did you talk to</p> <p>10 Mr. Johnson about who instigated it?</p> <p>11 A. If I remember right, I spoke to James</p> <p>12 Feagin and Jesse Taylor. I believe I</p> <p>13 spoke to Mr. Robbins, Harry Robbins. And</p> <p>14 Frank Hollifield.</p> <p>15 Q. Frank Hollifield?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And Robbins?</p> <p>18 A. Yes, sir. Taylor.</p> <p>19 MR. LEWIS: For the court</p> <p>20 reporter, spell those names</p> <p>21 out the best you know.</p> <p>22 THE WITNESS: Jesse Taylor,</p> <p>23 J-E-S-S-E, T-A-Y-L-O-R.</p>	<p>28</p> <p>1 on after they had got the work that I</p> <p>2 gave them to do done.</p> <p>3 Q. Did Ms. Stacey run compactions?</p> <p>4 A. Has she ever run? I'm sure she has, yes,</p> <p>5 sir.</p> <p>6 Q. During 2005?</p> <p>7 A. I can't remember, no, sir. I don't</p> <p>8 remember that. I don't know if she did</p> <p>9 or not.</p> <p>10 Q. Did you perform -- did she perform slump</p> <p>11 tests?</p> <p>12 A. During 2005? I'm sure at some point she</p> <p>13 did, yes, sir.</p> <p>14 Q. You don't have any recollection?</p> <p>15 A. No, sir.</p> <p>16 Q. Have you ever had confrontations with Ms.</p> <p>17 Stacey?</p> <p>18 A. Confrontations?</p> <p>19 Q. Yes.</p> <p>20 A. No, sir.</p> <p>21 Q. Y'all ever yell at each other?</p> <p>22 A. Oh, I'm sure we have. I wouldn't</p> <p>23 consider that a confrontation.</p>

7 (Pages 25 to 28)

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<p style="text-align: right;">29</p> <p>1 Q. Has she ever thrown anything?</p> <p>2 A. At me?</p> <p>3 Q. At you or in your presence?</p> <p>4 A. No, sir.</p> <p>5 Q. Did you ever reduce -- well, first of</p> <p>6 all, let me ask you this: How did the</p> <p>7 employees under your supervision keep</p> <p>8 track of their hours they worked?</p> <p>9 A. We have a sheet up on a board at the</p> <p>10 office that they are responsible for</p> <p>11 putting their hours down. It's been done</p> <p>12 a different way since I've been a Project</p> <p>13 Engineer, but usually I try to make each</p> <p>14 employee responsible for their time.</p> <p>15 That way they can't -- like I say, if a</p> <p>16 Chief Inspector is filling out the daily</p> <p>17 report, if he forgets to put somebody</p> <p>18 down or something like that, it keeps</p> <p>19 that from happening. They are supposed</p> <p>20 to keep their own time on the sheet when</p> <p>21 they came in. That way they can't say,</p> <p>22 Well, James forgot to put me down, or</p> <p>23 something like that.</p>	<p style="text-align: right;">31</p> <p>1 I'm not understanding the question.</p> <p>2 Q. All right. In other words, did you ever</p> <p>3 go back into Ms. Butler's file and</p> <p>4 disallow any leave slips that had been</p> <p>5 approved prior to that?</p> <p>6 A. Back into her file?</p> <p>7 Q. Yes. Or wherever leave slips are kept.</p> <p>8 A. No. Because when we turn in a time</p> <p>9 sheet, the leave slips go. The leave</p> <p>10 slips go over to the District Office on</p> <p>11 them. In other words, it wasn't a matter</p> <p>12 whether I went back and changed something</p> <p>13 in her file, because the leave slip that</p> <p>14 went to the payroll clerk would be on</p> <p>15 file.</p> <p>16 Q. Well, did you ever change it before it</p> <p>17 went to the payroll clerk and disallow</p> <p>18 leave that had previously been</p> <p>19 approved?</p> <p>20 A. I may have. I don't remember. Before</p> <p>21 the pay period was up?</p> <p>22 Q. Yes.</p> <p>23 A. I may have. I don't remember.</p>
<p style="text-align: right;">30</p> <p>1 Q. Did Ms. Butler and people she rode with</p> <p>2 during 2005 generally arrive back at the</p> <p>3 project office after everybody else</p> <p>4 did?</p> <p>5 A. I wouldn't know. I mean, I usually</p> <p>6 wasn't there when they got back in the</p> <p>7 afternoon.</p> <p>8 Q. Okay. So how would you know whether or</p> <p>9 not the hours they claimed were</p> <p>10 accurate?</p> <p>11 A. They write their hours down.</p> <p>12 Q. Okay. Did you ever deduct hours from Ms.</p> <p>13 Butler's time sheet?</p> <p>14 A. I don't know. I don't remember.</p> <p>15 Q. Did Ms. Stacey ever tell you that</p> <p>16 Ms. Butler had not worked the hours she</p> <p>17 claimed?</p> <p>18 A. I don't remember.</p> <p>19 Q. Did you ever go back anytime during 2005,</p> <p>20 beginning on April 8th, 2005, and</p> <p>21 disallow previously allowed leave time</p> <p>22 for Ms. Butler?</p> <p>23 A. Disallow previously? I don't remember.</p>	<p style="text-align: right;">32</p> <p>1 Q. Okay. Did you ever go back to previous</p> <p>2 pay periods and deduct hours from</p> <p>3 current?</p> <p>4 A. Did I do it?</p> <p>5 Q. Yes.</p> <p>6 A. No, sir, I don't have that power to do</p> <p>7 that.</p> <p>8 Q. Did anybody do it, to the best of your</p> <p>9 knowledge?</p> <p>10 A. I don't remember.</p> <p>11 Q. Did anybody do it at your direction?</p> <p>12 A. The person that would do it wouldn't be</p> <p>13 under my supervision. That would have to</p> <p>14 come from, I guess, the payroll clerk. I</p> <p>15 don't know how that would work.</p> <p>16 Q. Let me ask you one more time, because I</p> <p>17 don't remember the answer: Was there</p> <p>18 ever a time that Ms. Butler was required</p> <p>19 to be at work at 7:00 o'clock and Ms.</p> <p>20 Stacey was allowed to come in at 7:30?</p> <p>21 A. No, sir.</p> <p>22 Q. Did Ms. Stacey -- or did Ms. Butler ever</p> <p>23 tell you what racial slurs Ms. Stacey was</p>

8 (Pages 29 to 32)

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<p>33</p> <p>1 supposed to have used?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. What did she say?</p> <p>4 A. I mean, I know it was the "N" word, but I</p> <p>5 mean, I believe it was supposed to be</p> <p>6 several other curse words along with</p> <p>7 that. I don't remember exactly.</p> <p>8 Q. Would it have been something in the</p> <p>9 nature of, "Did you see that stupid ass</p> <p>10 motherfucking nigger hit me?"</p> <p>11 A. Something like that, yes, sir.</p> <p>12 Q. And did she also report to you that when</p> <p>13 Ms. Stacey saw the driver of the other</p> <p>14 car in the street directing traffic, she</p> <p>15 said, "Now that stupid ass nigger is out</p> <p>16 there trying to direct traffic"?</p> <p>17 A. I think it was something like that. I</p> <p>18 don't remember the exact words. She</p> <p>19 didn't report it to me now. I asked</p> <p>20 her.</p> <p>21 Q. And do you have any reason to believe</p> <p>22 that she was not telling you the truth</p> <p>23 about what she heard or thought she</p>	<p>35</p> <p>1 I didn't take any questions or comments</p> <p>2 from anybody. I pretty much told them I</p> <p>3 expected them to get that done and get it</p> <p>4 done then.</p> <p>5 Q. Well, did Ms. Butler attempt to tell you</p> <p>6 her side of the story at that time?</p> <p>7 A. Yes, sir.</p> <p>8 Q. You didn't --</p> <p>9 A. I didn't want to hear it.</p> <p>10 Q. You didn't want to hear it.</p> <p>11 A. I mean, what you have to understand, the</p> <p>12 work I had given them to do was right in</p> <p>13 front of a contractor. In other words,</p> <p>14 we didn't have time. It had to be done</p> <p>15 at that point. I mean, it was not wait</p> <p>16 until tomorrow or let's all have a</p> <p>17 meeting. It was, we've got to get this</p> <p>18 done at this point, and that was all that</p> <p>19 I was interested in having done at that</p> <p>20 time was getting all of that done.</p> <p>21 Q. I hate to go back to the sick-leave thing</p> <p>22 again, excused absences. But let me ask</p> <p>23 you if you recall a time that Ms. Butler</p>
<p>34</p> <p>1 heard?</p> <p>2 A. Do I have any reason to believe?</p> <p>3 Q. Yes.</p> <p>4 A. No, sir.</p> <p>5 Q. Okay. During or immediately after the</p> <p>6 confrontation on April 8th -- I represent</p> <p>7 to you it was April 8th -- the following</p> <p>8 Monday, did you come to the job site and</p> <p>9 have a meeting with the employees who</p> <p>10 were there about that incident?</p> <p>11 A. Are you talking about the day of the</p> <p>12 incident?</p> <p>13 Q. The day of or afterwards.</p> <p>14 A. I remember coming back to the job site.</p> <p>15 I was called by Ms. Stacey. She was</p> <p>16 telling me worked wasn't being performed.</p> <p>17 I remember coming back to the job site</p> <p>18 and gathering all the employees up on the</p> <p>19 job site together and pretty much reading</p> <p>20 the riot act to them and basically</p> <p>21 letting them know that I was expecting</p> <p>22 the work that I had given them to be</p> <p>23 performed and be performed at that time.</p>	<p>36</p> <p>1 called in and told you that her son was</p> <p>2 sick and that she would not be in?</p> <p>3 A. Do I?</p> <p>4 Q. Yes.</p> <p>5 A. I don't recall a particular instance, no,</p> <p>6 sir.</p> <p>7 Q. All right. Well, do you recall on any</p> <p>8 instance that you approved her leave and</p> <p>9 then, before anything went to payroll,</p> <p>10 you went back in and disapproved it?</p> <p>11 A. I don't recall that, no, sir.</p> <p>12 Q. Okay.</p> <p>13 A. I'm not saying that I didn't. I just</p> <p>14 don't recall.</p> <p>15 Q. I understand. During the period of time</p> <p>16 that Ms. Butler was under your</p> <p>17 supervision, did any openings exist or</p> <p>18 did they become open for Civil Engineer</p> <p>19 or what is now, I guess, Transportation</p> <p>20 Technologist?</p> <p>21 A. I'm sure they did.</p> <p>22 Q. In your area?</p> <p>23 A. I'm just sure that they were hiring</p>

9 (Pages 33 to 36)

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<p>37</p> <p>1 civil -- I mean, I'm a pretty good guess 2 they were hiring them across the state. 3 I don't know any particular position or 4 anything like that. 5 Q. Did you do any of the interviewing? 6 A. No, sir. 7 Q. That would have been at Mr. Waits' level 8 or somewhere up there? 9 A. Just whoever. I have never interviewed 10 anybody. 11 Q. All right. Can you recall who received 12 Civil Engineer jobs during the time that 13 Ms. Butler worked for you? 14 A. No, sir. 15 Q. Was Ms. Stacey offered a civil 16 engineering job? 17 A. I heard her say today she was. 18 Q. Prior to her, do you recall a white male 19 receiving a Civil Engineer job? 20 A. No, sir. 21 Q. To the best of your knowledge, did 22 Ms. Butler ever apply for that 23 position?</p>	<p>39</p> <p>1 A. No, sir. 2 Q. Can you recall whether you ever 3 reprimanded her for anything? 4 A. Ms. Stacey? 5 Q. Yeah. 6 A. No, sir. 7 Q. That was a bad question. 8 Did you ever reprimand her 9 for anything? 10 A. Reprimand her? No, sir. 11 Q. Or give her a letter of counseling? 12 A. Yes, sir. 13 Q. You did? 14 A. Yes, sir, I have given her a letter of 15 counseling. 16 Q. Do you recall on how many occasions? 17 A. I know of one. I don't know other than 18 that, but I know of one. 19 Q. Did you ever write Ms. Butler a letter 20 and tell her that her leave time was 21 low? 22 A. Did I write her a letter? I don't know 23 if I wrote her a letter. I had several</p>
<p>38</p> <p>1 A. No, sir, I don't know. 2 Q. None of that would have been your 3 responsibility? 4 A. No, sir, no. 5 Q. Let me just go through some notes. I 6 think we are just about through. 7 MR. LYLES: Do you want us to step 8 out for a minute? 9 MR. LEWIS: Yes, if you don't 10 mind. That would be great. 11 Thank you. 12 (Short recess) 13 Q. (By Mr. Lewis) Did you ever observe Ms. 14 Stacey having altercations in the office 15 with David Jones? 16 A. Altercations? 17 Q. Yes. 18 A. What do you mean by "altercations"? 19 Q. I'm talking shouting matches and things 20 like that. 21 A. I've heard them yell at each other, yes, 22 sir. 23 Q. Was she ever reprimanded for that?</p>	<p>40</p> <p>1 discussions with her about her time, but 2 I don't know if I wrote her a letter. I 3 know I wrote her a letter of written 4 counsel about her leave time. 5 Q. Well, I've got a leave record here, and 6 I'm not going to make it an exhibit. We 7 will do that later sometime. And it 8 shows that through August 19th of 2005 9 she always maintained a positive balance 10 of leave time. Could you confirm whether 11 that's true or not? 12 A. For 2005? 13 Q. Well, I think it starts 2003. 14 A. Yes, sir, it looks like she did. Yes, 15 sir. 16 Q. Okay. At what point would you warn her 17 about leave time? 18 A. I usually try to say something to my 19 employees if they get under about 40 20 hours. 21 Q. But she never got down to zero. She 22 never used up all of her leave time? 23 A. I don't recall. I just glanced over it.</p>

10 (Pages 37 to 40)

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1 I don't think she did, no, sir.

2 Q. Did you go to the hospital to see
3 Ms. Butler after that accident in January
4 of 2005?

5 A. Yes, sir.

6 Q. During that period of time did she try to
7 talk to you about the circumstances of
8 the accident?

9 A. Not that I recall, no, sir.

10 Q. Do you recall anything she said to you?

11 A. I don't even recall if I talked to
12 Ms. Butler. I don't know if Ms. Butler
13 was already back in the waiting room or
14 not when I got there. I just went by
15 there and checked. I don't remember.

16 MR. LEWIS: I think that's all I
17 have.

18 MR. LYLES: We don't have
19 anything.

20 (Whereupon, the deposition was
21 adjourned at 12:05 o'clock
22 p.m.)
23

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1 CERTIFICATE OF COURT REPORTER

2 I, DAWN A. GOODMAN, do hereby certify;
3 That I am a Certified Shorthand Reporter
4 of the State of Alabama;

5 That the foregoing pages are a true and
6 correct transcript of the Deposition of Patrick
7 Todd Jackson;

8 I further certify that I am not interested
9 in the outcome of said matter nor connected
10 with or related to any of the parties of said
11 matter or to their respective counsel.

12 Dated this 9th day of January, 2007, at
13 Prattville, Alabama.
14
15

16 _____
17 DAWN A. GOODMAN, CSR
18 State of Alabama
19
20
21
22
23

11 (Pages 41 to 42)